

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK,
by ERIC T. SCHNEIDERMAN, Attorney General
of the State of New York,

Index No. 401004-12

Plaintiffs,

- against -

JOHN C. MOORE, ROBERT HINKLE, MICHAEL
LAKOW, DIANA PIKULSKI, HAYWARD R.
PRESSMAN, LESLIE PRIGGEN, JOHN S.
RAINEY, MARGARET SANTULLI, AND
THOROUGHbred RETIREMENT
FOUNDATION, INC.,

Defendants.

AFFIDAVIT OF STACEY HUNTINGTON, D.V.M.

**AFFIDAVIT OF
STACEY HUNTINGTON, D.V.M.**

STATE OF MISSOURI)
) ss.:
COUNTY OF GREENE)

STACEY HUNTINGTON, being duly sworn, deposes and says:

1. I am a licensed veterinarian, based in Springfield, Missouri. I received a Doctor of Veterinary Medicine (D.V.M.) degree in 1986 from Colorado State University, and I have been working as an equine veterinarian since then. I am currently licensed as a veterinarian in Missouri and have previously been licensed in Colorado and Wyoming. I have participated in continuing veterinary education every year since I graduated, typically earning 10-35 credits per year, in a variety of subjects: surgery, medicine, reproduction, lameness, nutrition, welfare, and podiatry.

2. For the past 23 years, I have been a member of the American Association of Equine Practitioners (AAEP), an organization that develops and promotes practice guidelines and provides training and education for veterinarians and the horse industry.

3. My veterinary practice focuses almost entirely on horses. I treat show horses, trail horses, pleasure horses, dressage horses and jumpers as well as injured and retired race horses.

4. I have acted as a consultant and advisor to the Greene County, Missouri Sheriff's Department for five years. In that capacity I am frequently asked to evaluate animals and animal management practices in cases that the Sheriff's Office investigates.

5. I have served as an expert witness in several cases of animal abuse and neglect. I have been accepted as a veterinary expert in the Missouri court system. I have testified in two criminal animal abuse cases in Missouri involving more than 135 horses.

6. In addition, I have served as an expert veterinary consultant in more than 25 investigations and provided expert opinion in connection with applications for obtaining search warrants in Missouri. In these matters, my duties involved evaluating animals and facilities where neglect or cruelty was alleged. The investigations and search warrants in which I participated resulted in more than 300 animals being seized; not one of those seizures was overturned and none of the seized animals were returned to their owners.

7. I have evaluated herds of horses that varied in size from as few as 10 to more than 80. These evaluations included body condition scoring, reviewing evidence of veterinary needs, and evaluating facilities for compliance with state statutes for provision of clean water, wholesome food and proper shelter, all of which are required to be adequate to keep the horses in healthy condition.

8. Domesticated horses require certain basic care and routine veterinary services. Basic care includes vaccinations for sleeping sickness, tetanus, West Nile virus, and rabies at least once per year. Horses are threatened by these diseases through exposure to insects and other animals, and vaccination is the only way to prevent them from being infected. Horses must also receive regular medicine, technically called "dewormers" but commonly referred to as wormers, for treating and preventing internal parasites and worms, which can decrease a horse's resistance to infection, prevent a horse from getting proper nutrients, and cause extensive damage to its organs, resulting in colic (severe abdominal pain) and sometimes death. Most

farms deworm their horses at least quarterly to prevent gastrointestinal conditions or test their horses periodically for parasite infestations and treat them appropriately.

9. In addition, periodic dental work is essential for all horses. It is essential that horses have their teeth checked at least once per year to ensure that their teeth have not become too sharp from uneven grinding, preventing them from chewing their food properly and thoroughly. In particular, pasture horses depend on tough, fibrous grass for their sustenance and therefore their teeth wear down more quickly than the teeth of a horse that eats mainly cultivated hay. Without regular dental care, horses' teeth can become as sharp as razor blades and can pierce their gums, causing severe pain and often resulting in infection. Horses who do not receive adequate dental care, and whose teeth have become razor sharp, are reluctant to eat at all because of the pain, often leading to malnourishment. That is why it is imperative for horses to have their teeth regularly "floated," the process by which a veterinarian files down the surface of the teeth to remove sharp edges.

10. Basic care for horses also includes routine farrier work, which means the trimming and balancing of horses' hooves and, when necessary, the placing of shoes on their hooves. Farrier work is essential to a horse's well-being because it prevents splits, cracks, flares, or overly long growth in hooves, which affect a horse's ability to walk and graze. Horses' hooves grow throughout their lives much like humans' fingernails. Consistent farrier work shapes the hooves to ensure proper orientation to the ground and ease of mobility. Without proper farrier care, splits and cracks can extend from the outside of the hard hoof wall into the soft tissues inside the hoof or even extend from the ground to the hairline above the hoof, producing painful bleeding, skin fissures, and lameness. Flares in the hoof wall allow dirt and

rocks to work under the hoof wall producing infections. All of these conditions can produce great pain for a horse and limit its ability to walk.

11. Basic care also entails attending to wounds, skin diseases, and injuries in a timely manner. Basic care requires segregating horses such that less aggressive ones get enough to eat, thin ones are provided with additional feed, and ensuring that all horses have access to shelter from bad weather.

12. The average life expectancy of a modern, domestic horse is between 25 and 30 years. Most Thoroughbred race horses retire from the track by age six or seven, but will live for many more years and require support for the rest of their lives.

Overview of My Inspections of the TRF Herd and Farm Facilities

13. Beginning in early January 2011 and continuing until March 2011, I was retained by the Thoroughbred Retirement Foundation, Inc. ("TRF") to conduct an independent evaluation of TRF's herd of horses and farm facilities. Though hired by TRF, the reimbursement of my travel expenses, as well as for any emergency procedures that I deemed necessary for the horses I evaluated, was assumed by the executors of the estate of Paul Mellon, the donors of TRF's endowment fund, who had specifically called for an independent evaluation as a result of their growing concern over the condition of TRF's herd.

14. I was asked to evaluate the TRF horses with regard to body condition and health, and to check for evidence of accepted standards of maintenance, such as hoof and dental care. I was also asked to evaluate the living conditions for horses at each farm, including the provisions of food, water, and shelter.

15. At the time of my inspections, TRF's herd consisted of approximately 1,150 horses spread over 29 satellite farms and correctional institutions in 13 states. Until my

engagement was terminated by TRF on March 18, 2011, I was able to conduct inspections at 19 TRF facilities, at which I evaluated 857 horses. As discussed in greater detail below, my inspections revealed serious deficiencies in the care provided to and the condition of many of the TRF horses and farm facilities.

16. The inspections were scheduled and coordinated by TRF's Herd Manager, Julie Walawender. At each farm inspection I was accompanied by a veterinarian who was a member of the AAEP and licensed to practice in the state where the inspection took place.

17. In accordance with my contract, I evaluated TRF's horses using the Henneke Scoring System, a scientific method for describing a horse's body condition based on a standardized scale, regardless of breed, body type, sex, or age. There are six major areas of a horse's body (back, ribs, withers, neck, shoulder, tailhead) that need to be examined in order to accurately determine the horse's overall body condition score. Part of my inspection included palpating each part of the horse with my hands to feel for body fat. I then assigned each area of the body a numerical score that corresponds to the horse's condition. The Henneke scale includes numerical values based on the amount of fat gathered in specific areas of the horse's body, ranging from 1 (Poor) to 9 (Extremely Fat). A horse with a Henneke score below 3 (Thin) is considered malnourished. The Henneke Scoring System is widely used by law enforcement agencies as an objective method of scoring a horse's body condition in horse cruelty cases as well as an objective communication tool between horse professionals. As part of my evaluation, I considered TRF's own standard of care, as stated in their satellite farm contract, which calls for the horses to be maintained at a body condition score ("BCS") between Moderate (5) and Fleshy (7).

18. I also examined TRF facilities for compliance with the “Basic Guidelines for Operating an Equine Rescue or Retirement Facility,” published by the Animal Welfare Institute and the Humane Society of the United States. These organizations also publish a “Checklist for Equine Rescue Facilities,” which uses a numerical scoring system for evaluating whether a facility is operating in a manner that ensures the welfare of the horses in its care. The Checklist is provided for use by veterinarians, or government officials, when evaluating equine rescue facilities and practices. According to the Checklist, any score of 2 should be addressed with immediate action and any score of 1 denotes non-compliance with the Basic Guidelines described above. I rated each facility as either excellent, good, fair, and poor, fair being a 2 and poor being a 1 on the Checklist scale.

Summary of Findings

19. My inspection of TRF’s herd revealed serious problems with horse care, deficiencies in TRF’s oversight and supervision of its herd, and widespread failure to provide its horses with regular and emergency veterinary care that retired racehorses require.

20. Of the 19 facilities I visited, I determined that ten farms were in good condition, but nine were problematic; of those nine, one farm was fair, four were fair to poor, and four were poor, according to the “Checklist for Equine Rescue Facilities” standards.

21. I found that the majority of the farms failed to provide routine maintenance care to TRF horses. Of the nearly 860 TRF horses I evaluated, more than 98% were lacking in one or more of the generally accepted standards of caring for horses: vaccines, dewormers, teeth floats, veterinary care, and farrier care. At the time of my evaluation, 70% of the TRF horses had not been vaccinated in the previous two years. I referred a total of 78 horses for emergency dental work and 24 were referred for emergency farrier work. At least 10% of the TRF horses I

examined had such urgent need for dental and farrier work that the lack of such basic care affected their ability to eat or ambulate.

22. I concluded that hundreds of TRF horses had body condition scores below the low end of the range required by TRF in its farm contracts. I identified many horses as neglected and several horses were malnourished.

23. I also found a severe lack of oversight by TRF of its boarding facilities. Several of the farms I visited maintained poor books and records. It was apparent that TRF failed to properly track and monitor its herd by the numerous misidentified and unidentified horses I found at the farms. All but one of the farms had horses that were listed on TRF's inventory list but not found on the premises, and horses that were found on the property but not identified on TRF's inventory list. The two farms with the largest number of low BCS horses, and which had the horses with the absolute lowest BCS, had the largest percentage of unidentified horses.

Windmill Ranch, Rocking T Ranch, and Rafter G Ranch Inspections

24. Between January 7, 2011 and January 10, 2011, I evaluated three TRF satellite farms in Oklahoma and the TRF horses found at these locations. These farms were Windmill Ranch, Rocking T Ranch, and Rafter G Ranch.

25. At all three farms, I found horses in need of intensive care due to malnutrition. Windmill Ranch not only had thin, heavily tick-infested horses, but also was feeding those horses a toxic feed additive. I instructed the caretakers to stop this practice immediately. This was particularly disturbing because, as I later learned, TRF personnel, including then CEO, Larry Taylor, and Herd Manager, Julie Walawender, had visited Windmill Ranch a few months prior to my inspection and had failed to notice that the horses were being given a toxic feed. The great majority of the horses at Windmill Ranch were covered in ticks; many horses had hundreds of

ticks on them, extracting their blood. Heavy tick infestations, such as this, can cause anemia, weakness and lack of vigor, which was visibly apparent in most of the Windmill Ranch horses. The only available shelter for the horses at the Windmill Ranch was the trees in the field, which had heavy brush growth underneath, filled with ticks.

26. In addition, none of the horses on any of these three farms had been vaccinated in over two years, and many were in need of farrier services. For example, because of the lack of proper farrier care, many had hooves that were too long. One even had hooves so badly cracked that there were splits from the ground to the hairline with evidence of dried blood from the splitting. This had caused lameness and would result in great pain.

27. At all three farms, record keeping was a significant problem as well. I found significant discrepancies between the inventory lists of horses that I received from TRF and the horses that were actually present at the facilities. Further, all three farms reported to me that TRF had been behind in its payments within the past year by as much as eight months.

28. Based on my findings, I recommended that seven horses be relocated immediately for intensive care and that an additional seven extremely thin horses be relocated within the next 30 days. By January 24, 2011, all 14 horses had been transferred to Circle E Ranch in Oklahoma, a special-care farm owned and managed by Gayle England.

29. On January 11, 2011, I received a request from TRF's then Chairman, Tom Ludt, requesting a report of my findings with respect to the three Oklahoma farms so that it could be presented to the TRF Executive Committee at an upcoming meeting. I prepared a summary of my findings and sent it to Mr. Ludt on January 11, 2011.

Lowder Farm Inspection

30. On February 16 and 17, 2011, I evaluated the Lowder Farm in South Carolina. At the time of my inspection, the Lowder Farm housed 120 TRF horses, though its maximum capacity is only 60. The owners of this farm, Mr. and Mrs. Lowder, lease the pastures on which they keep their horses. They derive their income from the per diem (the amount per day that the farm receives for each TRF horse that it boards) TRF pays them and use it to pay their living expenses. The Lowders reported to me that TRF was in serious arrears to them and that in order to purchase feed for the TRF horses, they had incurred significant personal debt, causing near financial ruin for them. They told me that they had no savings and that they had maxed out their credit cards on farrier services and de-worming medication, and were behind on their personal bills because TRF was so delinquent in its payments. The Lowders admitted to me that they could not even afford to buy one bag of grain for the horses.

31. The area where this farm is located was drought stricken and the pasture very barren. The Lowders told me that they had the intention of seeding portions of their pasture for better winter grazing but they lacked the money to do so. The Lowders informed me that TRF had been extremely slow in its payments to their veterinarian and therefore he refused to further treat any TRF horse barring an emergency. The Lowders' regular veterinarian contacted me after my inspection of that farm and confirmed the delinquency of payments. Further, farrier visits were reported to be irregular due to lack of payments by TRF. In my report on this farm to TRF, I stated, "this farm is a disaster in the making due to the financial constraints on the Lowders." The Lowders also informed me that although they sent numerous emails to Larry Taylor, TRF's then CEO, TRF never became current on its payments. At the time of my visit, TRF was three months in arrears.

4-H Ranch Inspection

32. In February 2011, I was scheduled to evaluate 63 TRF horses being cared for by the 4-H Cattle Company (4-H Ranch) in Depew, Oklahoma. The owners of the 4-H Ranch, Alan and Janice Hudgins, have contracted with TRF since December 2004.

33. Between January 8 and February 23, 2011, Mr. and Mrs. Hudgins refused TRF access to the horses they were caring for, despite the satellite farm contract they had signed acknowledging TRF's permission to access the property with 24 hours notice. Even though TRF's Herd Manager had on three separate occasions scheduled my visit, the Hudgins cancelled all three inspections. TRF's Herd Manager, Julie Walawander, told me that the Hudgins had given a variety of reasons to deny access, including TRF's history of overdue payments.

34. On February 23, 2011, upon TRF becoming current in its payments to 4-H Ranch, all TRF horses at 4-H Ranch were transferred to Flying Y Ranch in Tryon, Oklahoma. A total of 47 horses were transferred at this time. Significantly, however, the herd inventory list for 4-H Ranch given to me by TRF, identifying the horses by name and tattoo number, listed 63 TRF horses, not 47. This means that 16 TRF horses that were supposed to be at 4-H Ranch were unaccounted for. I was never given an explanation for the discrepancy in the number of TRF horses on the 4-H Ranch herd inventory list (63) and the actual number of horses found at that ranch (47).

35. Tom Loafman, D.V.M., a local veterinarian, was hired by TRF to be present at 4-H Ranch to oversee the loading process of the TRF horses and their transfer to Flying Y Ranch. Dr. Loafman had previously accompanied me on the three Oklahoma farm inspections discussed above. Dr. Loafman took several photographs of the horses at 4-H Ranch to document their condition, and later that day sent those photographs, along with a report, to Julie Walawander,

the TRF Herd Manager. Attached as Exhibit 1 are true and accurate copies of Dr. Loafman's report and the accompanying photographs. Dr. Loafman reported at least one horse with a BCS of 1.5-2.0, and two with a BCS no higher than 2.5.

36. The next morning, on February 24, 2011, Ms. Walawender forwarded Dr. Loafman's photographs and report to me. In my view, all of the TRF horses shown in the photographs were in terrible condition. Many appeared to be emaciated. Two days later, when I inspected the horses that had been transferred from the 4-H Ranch, as described below, I was able to confirm that Dr. Loafman's photographs were a true and accurate representation of the appearance of the horses, and I concurred with his body condition scoring.

37. After receiving the photographs, I immediately requested a conference call with TRF's then President, George Grayson, its then Chairman, Mr. Ludt, and the Mellon Executors. On February 24, 2011, I had a conference call with Mr. Grayson and the Executors of the Mellon Estate, Beverly Carter and Ted Terry. Mr. Ludt was reportedly unavailable. During this call, I said that it was urgent for TRF to file a complaint with the Okmulgee County Sheriff's Department, where 4-H Ranch is located, so that a search warrant could be obtained to try to find the 16 missing horses. Mr. Grayson initially told me that he did not want to file a complaint about the missing horses, but eventually (and reluctantly) said he would do so on the condition that I file a report about the condition of the horses pending the results of my evaluation. Despite this statement, however, to my knowledge neither Mr. Grayson nor anyone else from TRF ever filed a complaint with the Okmulgee County Sheriff. Shortly after the call, however, I filed such a report with the Sheriff's office, as described in more detail below.

38. To my knowledge, TRF has never resolved the discrepancy between the 4-H Ranch inventory list and the horses that were identified at my evaluation. I believe that by not

acquiring a search warrant quickly after being notified about the missing horses, TRF lost its best opportunity to ascertain the fate of those horses that had been sent to 4-H Ranch for retirement.

39. Oklahoma had experienced a historic blizzard that lasted from January 31, 2011 to February 2, 2011, with temperatures in the single digits and winds creating ground blizzards to accompany more than 10 inches of snow. It is my opinion that a horse that had reasonable shelter and plenty of good food could have survived that blizzard. A weak and emaciated horse, however, would have had serious difficulty enduring these conditions, particularly without shelter. Though no one has been able to definitively account for the 16 missing horses at 4-H Ranch, given the overall poor condition of the 47 horses I evaluated, I believe it likely that some of those 16 missing horses died during that late January-early February blizzard.

40. On February 25, 2011, at the Flying Y Ranch in Tryon, Oklahoma, I examined the 47 horses that had been transferred from the 4-H Ranch and determined that 4-H farm had the highest percentage of underweight horses of all the farms I evaluated. As part of my evaluation, I graded each horse for body condition, condition of hooves, teeth, skin, and eyes, and appropriateness for adoption. Of the 47 horses, 22 horses had a BCS of between a 3.0 and 3.75 on the Henneke scale, four were between 2.0 to 2.75, and one was a 1.5. Attached as Exhibit 2 are copies of photographs I took during my inspection of the 4-H Ranch and which are true and accurate representations of the appearances of the horses as I observed them. All of the horses needed farrier care; many had long, split hooves. All of the horses needed dental work. Eight of them required urgent dental care.

41. It is my practice to recommend a horse for urgent dental work when the horse is found to have wounds in his mouth from spiked, sharp teeth protruding into its gums, or when the horse has sores on its tongue or lacerations on its inner cheeks from sharp edges on its teeth.

All of the horses that I recommended for urgent dental care had some of these characteristics and some of the horses had all of them.

42. After their transfer from the 4-H Ranch, the horses were being fed alfalfa hay. Research has shown, however, that horses with a BCS of 2.5 and lower commonly die during the re-feeding process, even when given subsequent good care and monitoring. Several of the horses at 4-H Ranch had a BCS of 2.5 or less and therefore were at an increased risk of death.

43. After my evaluation of the 4-H Ranch horses, on February 25, 2011, I filed a report with the Okmulgee County Sheriff's Department regarding the health condition of the horses from the 4-H Ranch. A true and accurate copy of the report is attached hereto as Exhibit 3. Because the horses had been moved to a county other than the one in which the neglect occurred, and because I was not the owner of the horses, I was told I could only file a report on their condition, but could not file a complaint about the missing horses, thereby thwarting any search of the 4-H Ranch property to try to locate the missing horses. I filed my report about the overall poor condition of the 47 horses to conform with Oklahoma state statutes which require reporting of neglected and abused animals. In my opinion, the horses at 4-H Ranch met this definition.

Detweiler Farm

44. On March 2, 2011, I examined 33 TRF horses at Deer Valley Farm, in Munfordville, Kentucky owned and operated by Sam Detweiler. Of those 33 horses, 10 horses listed on the TRF inventory list could not be identified and 9 horses could not be matched up with any name on the inventory list. I rated three horses there to have a BCS of 2.5 or lower, none of which was an aged horse, all being 14 years old or younger. Attached as Exhibit 4 are copies of photographs I took of each of those horses during my visit to Sam Detweiler's farm

and which are true and accurate representations of the appearances of the horses as I observed them.

45. Mr. Detweiler reported to me that he had originally agreed to care for TRF horses at a rate of \$3.00 per day, per horse. However, when Mr. Detweiler received the horses, TRF cut his per diem payments to \$2.50. The horses on this farm were not being fed adequately and were in serious need of nutritional supplementation. Mr. Detweiler raises Standardbred horses and was ignorant about the nutritional needs of Thoroughbreds. When I visited his farm in the early Spring, there was no pasture available for grazing. Mr. Detweiler only fed bales of coarse hay and acknowledged that his hay was of low nutritional value. He did not provide any grain to TRF horses. During my visit, I recommended that Mr. Detweiler purchase good alfalfa hay and grain to supplement his poor quality pasture. Initially, Mr. Detweiler told me that his \$2.50 per diem would not allow him to purchase grain or better quality hay. After informing Mr. Detweiler of the importance of supplemental grain and hay, he agreed to buy better quality hay and to increase the feed for the three horses with a BCS of 2.5 and lower.

46. However, eight days after my visit, Mr. Detweiler's local veterinarian, Dr. Tim Wilkerson, called me and told me that one horse, which I had determined to have a BCS of 1.5 at the time of my visit, was down and moribund in a stall. Dr. Wilkerson informed me that he wanted to euthanize the horse and sought my consent. I asked Dr. Wilkerson if Mr. Detweiler had purchased new hay as he had promised he would and I was told that Mr. Detweiler had not. Per my recommendation, the horse was euthanized.

47. Dr. Wilkerson performed an autopsy on the horse and reported to me by phone that he found a few parasite larvae in the horse's stomach, normal-appearing intestines, and zero

body fat. Dr. Wilkerson reported finding no other abnormalities in the horse. In my professional opinion, this is an example of neglect leading to death, apparently by starvation.

Holliknoll Farm

48. On March 17, 2011, I evaluated the horses located at Holliknoll Farm in Virginia. Holliknoll Farm had not had a farrier out to trim the horse's hooves in five years. All of the horses had hooves that greatly interfered with their quality of life. Some horses had hooves that were so severely cracked that the split went from the ground to the hairline, resulting in painful bleeding and lameness. During my visit at Holliknoll Farm, I interviewed the farm's manager, Terri, who told me that Sandy Pikulski, a TRF employee or consultant, told her that vaccinations and farrier treatments were not necessary and therefore those services should not be scheduled. I was told by Terri that to save TRF money, Holliknoll Farm had been instructed by TRF to treat the horses themselves and that Terri was to address veterinary needs and basic farrier services herself. Terri informed me that she had no training in either of those fields. The horses at Holliknoll Farm had not been properly vaccinated in over five years. I referred one horse for urgent care due to his having sustained a head injury four to six weeks prior to my evaluation that had not been properly treated. That horse had one or more skull fractures, that were evident upon touch to his skin, and that were dripping pus. Terri told me that horse had not received veterinary care because of TRF's instructions to minimize vet bills.

The Termination of My TRF Contract

49. On March 17, 2011 *The New York Times* published an article written by Joe Drape about the TRF and my evaluations of their satellite farms. I was quoted in that article and details from the Oklahoma Sheriff's report, as well as details from some of my evaluations were

published. Attached as Exhibit 5 is a true and accurate copy of *The New York Times* article from March 17, 2011.

50. The next day, March 18, 2011, I received an email from Mr. Grayson informing me that I was no longer authorized to inspect any TRF horses. Additionally, on March 19, 2011, TRF board member Hayward Pressman sent an email to several TRF satellite farms informing them that I was no longer allowed to examine any of the TRF horses in their custody.

51. On March 21, 2011, as per my agreement with TRF, I submitted copies of every horse's individual evaluation along with every farm evaluation and the photographs taken during my evaluation to Beverly Carter, Ted Terry, George Grayson, and Tom Ludt. The individual horse and farm evaluations were then summarized by me and combined with my recommendations to TRF. This summary was also sent to Beverly Carter, Ted Terry, George Grayson, and Tom Ludt on March 27, 2011. Attached as Exhibit 6 is a true and accurate copy of the summary I submitted on March 27, 2011.

Summary of My Findings

52. My recommendation document was intended to be a summary of my findings and included the results of my evaluations and my recommendations to TRF going forward.

53. Of the 857 horses I inspected, 241, or nearly 30 percent, had a BCS of 4.75 or below and did not meet the 5 to 7 range mandated by TRF in its farm contracts.¹ Of those I identified, based on my records, 93 horses had a BCS of less than 4 and 29 horses had a BCS of 3 or less. Several horses I evaluated could not be identified and some horses' ages were not determined. In my report, I did not include any horse whose age could not be verified in my

¹ In my recommendation report to TRF, dated March 27, 2011 (Exhibit 6), I noted that based on TRF's own standard, 380 horses had less than ideal body condition scores. In that calculation, I included horses that I scored as having a BCS of 5. However, since TRF's satellite farm contracts require TRF horses to be maintained at a BCS between 5 and 7, the horses that I scored as having a BCS of 5 should not have been included. With that correction, out of the 857 horses I examined, the number that had a BCS below TRF's own targeted range was 241.

calculations. Of the horses whose age I could accurately determine, 373, or nearly half of the herd I inspected, were under the age of 12; 346 horses were between 13-17 years old; and 122 horses were 18 years or older. A horse between the age of 18 years and 25 years is considered elderly, with horses over 25 years old considered very elderly. More than eighty percent of the horses I evaluated were not elderly. I determined that age was not a factor in the condition of the horses and found that the body condition scores did not correlate with age, as low body condition scores were found at every age range.

54. In my report, I recommended that TRF close Rafter G Ranch and the Detweiler Farm. I also recommended that the facility populations be reduced to no more than 50 horses at any given facility. At least seven of the farms I visited had more than 50 horses and two had over 100 TRF horses. Reducing the herd size would decrease the number of injuries to the horses as well as allow more daily interaction between the horses and their caretakers. Better interaction will allow caretakers to catch problems early before they become serious. Decreasing the size of the individual herds, in my opinion, is paramount for TRF to continue carrying out its mission.

55. I also recommended that TRF aggressively seek to improve their re-training and adoption program. At least 372 of the horses I evaluated were re-training prospects. I informed TRF that it was imperative that they establish cooperative, coordinated efforts with re-training and re-homing groups to find appropriate homes for many of the horses in their herd. Montpelier Station Farm, located in Virginia, is considered TRF's re-training and adoption center. However, when I evaluated that farm, I was struck by the lack of structure and organization at that facility. Many of the horses had moderate to severe skin infections but only some of them were being treated. TRF was paying rent for use of the barns but no TRF horses were being

stalled there; there were only privately owned horses in stalls. I recommended TRF significantly improve oversight at Montpelier.

56. Based on my evaluations, I determined that three dollars a day (\$3.00) was inadequate to maintain a retired Thoroughbred. Although I originally recommended that TRF increase the daily fee they pay their satellite farms to at least four dollars a day (\$4.00), I now believe that increased feed and hay prices, as well as increases in fertilizer and fuel prices, necessitate a bare minimum of at least five dollars per day (\$5.00) for basic care, excluding costs for veterinary and farrier services. Designated special care horses require a still higher per diem because they need more specialized feed to maintain a proper body weight.

57. Because satellite farm owners are responsible for purchasing feed and providing direct care to TRF horses, the monthly payments to these farms must be made a priority. I have seen no indication that TRF has increased its per diems, as I recommended.

58. Lastly, my report recommended that humane euthanasia needs to be a part of TRF's future and I suggested that TRF develop a good relationship with local veterinarians to help farm managers make the decision when to euthanize a horse.

Events After My Inspections

59. On or about March 23, 2011, I submitted a formal complaint to the New York State Attorney General's Office describing my dealings with TRF. My initial complaint to the Attorney General detailed the lack of oversight and management at the TFR facilities I visited, the failure to provide adequate funding to ensure proper food and care for the horses, and the adversarial relationship with the satellite farm managers.

60. I have provided the Attorney General with copies of every report I submitted to TRF, including summaries of each farm I visited and my findings for each horse I evaluated.

61. On April 20, 2011, John Moore, Chairman of TRF's Herd Intake and Management Committee, issued a statement assuring TRF's Board and TRF supporters that the claims in the *New York Times* regarding large numbers of starving and dying TRF horses were incorrect. A true and accurate copy of Mr. Moore's statement is attached hereto as Exhibit 7. I disagree with statements in this document, including those related to the percentage of the herd that was below ideal body weight as well as the suggestion that many of the weight problems were occurring in older horses. Over 80 percent (719) of the horses I inspected were 17 years or younger; therefore it is my opinion that the large number of low BCS numbers cannot be attributed to age. Further, Mr. Moore claimed that only 10 percent of the horses were below ideal body weight, when in reality, my evaluations found 241 (approximately 28 percent) of the horses had a BCS of 4.75 or less, well below TRF's own standard for body weight.

62. On April 8, 2011, I reported the Detweiler Farm to the Sheriff's Department that services Munfordville, Kentucky. In my complaint I reported that I believed the farm was home to 33 neglected horses, and that approximately 15 of the horses were very thin or emaciated to the degree that their lives were in danger. I also reported that one emaciated horse had already been euthanized and that TRF was 60 days in arrears in its payments to this farm.

63. On May 2, 2011, an investigator from the Kentucky Department of Agriculture visually inspected the horses at the Detweiler Farm. The investigator's report indicates that Mr. Detweiler acknowledged that some of his horses had been euthanized recently for medical reasons, though he claimed this development was unrelated to malnourishment. Attached as Exhibit 8 is a true and accurate copy of the Kentucky Department of Agriculture investigator's report.

64. The investigator called me shortly after his inspection of the Detweiler Farm and informed me that the two recently euthanized horses had been the ones I had previously rated as having a BCS of 2.5 or below. He told me that upon an autopsy, one horse had been found full of worms. A horse full of worms is a very unusual finding these days, when easily obtainable and economical dewormers are readily available. In my 26 years as an equine vet, I have had only one case involving a horse full of worms and it was undeniably a case of neglect.

Ongoing Concerns About TRF

65. I became extremely concerned when I found out that on April 8, 2011, Dr. Loafman had been hired by TRF to re-evaluate the Oklahoma horses I had recommended be moved to the special care facility. Dr. Loafman recommended that most of the horses return to regular TRF care. The farms to which he suggested they return were precisely the farms from which I had removed them. One farm Dr. Loafman recommended returning horses to was Rafter G Ranch, which I had recommended be closed as a TRF facility, and which had five horses removed from it because of unacceptably low body weights. Several of the horses that Dr. Loafman recommended be returned to TRF satellite farms had not even approached a desirable body weight at the time of his evaluation.

66. I remain concerned about the well-being of the TRF horses that were removed from the special care farm. Horses with special needs require higher level of expenditures to be brought back to health. In my view, it is highly unlikely that the malnourished horses I examined would be able to properly recover if transferred back to the TRF farms where they had initially been neglected. Moreover, increased hay prices over the last year, combined with TRF's low per diem rates to its satellite farms, makes it incredibly difficult to adequately care for even an average retired Thoroughbred racehorse. In my view, it is not possible to properly care

for a retired Thoroughbred race horse on \$3.00 a day and the ones with special needs require additional feed and services. That is why I was extremely alarmed by Dr. Loafman's recommendation.

Concerns Regarding Colorado Relocation Plan

67. On January 26, 2012, TRF announced a plan to relocate up to 600 of its horses from various TRF facilities to Cucharas Ranch, which is located near Walsenburg, Colorado and owned and operated by Tom McKenna.

68. Attached as Exhibit 9 is a true and accurate copy of the Press Release issued by TRF on January 26, 2012.

69. I have lived and practiced in Colorado for 18 years. I am familiar with Walsenburg, having driven through it many times. I am also familiar with the keeping of horses at elevations of 6,200 feet, which is the elevation of Walsenburg, Colorado.

70. Cucharas Ranch is located on 45,000 acres of land and is subject to harsh high desert conditions and extreme temperatures in the winter, including blizzard conditions in the winter months.

71. The harsh climate of Walsenburg can pose serious burdens on a large herd of horses, especially Thoroughbreds, which would require close monitoring by ranch personnel, adequate shelter, high quality hay, and easily accessible water sources to survive in these conditions.

72. Thoroughbreds are much different from other breeds of horses. Conditions which may be acceptable for other horse breeds are not acceptable for Thoroughbreds. Thoroughbreds are considered "light breeds" and are thin-skinned with fine haircoats. In the world of horses, Thoroughbred racehorses are atypical from other horses--they are not socialized with other

horses and they do not understand typical herd behaviors, which would be natural for horses who have not spent large portions of their lives in racetrack stalls. In addition, all their needs have been provided for: food, water, and shelter. Introducing newly retired racehorses to their retirement pasture often requires teaching them how to graze and interact with other horses in the herd. In my experience, Thoroughbreds do best in small herds where their physical and emotional needs are regularly monitored. Thoroughbred racehorses are accustomed to daily contact with humans, and simply turning them out in large herds to fend for themselves would result in fatalities. Often, Thoroughbred racehorses have some injury incurred during their racing career and require on-going monitoring and care. Taking horses with chronic injuries, and which have little sense of social order and herd rules, and dumping them into a large herd is not humane.

73. I have serious concerns about what I have been able to learn about Mr. McKenna's ranching experience and his ability to care for Thoroughbreds. A 2009 article from Bloodhorse magazine, stated that "Mr. McKenna is a big proponent of raising runners [racehorses] the cowboy way--in huge, scruffy fields." Attached as Exhibit 10 is a true and accurate copy of that article. During my evaluations of TRF's satellite farms, I saw the results of two farms who maintained their horses in the same "cowboy way." At both Windmill Ranch and 4-H Ranch, I found TRF horses to be in poor health and extremely neglected. Both of these facilities had caretakers who simply did not understand the needs of Thoroughbred horses.

74. I have further concerns about Mr. McKenna's staffing capabilities. It is imperative that TRF have oversight in place for Mr. McKenna's farm and that there is adequate training for the caretakers to ensure they understand what is required for maintaining Thoroughbreds in such a remote area. TRF is disgracefully inadequate in the area of caretaker

education. During my interviews with TRF's satellite farm managers, which I conducted as part of evaluations, the majority of caretakers told me they had been given no training, with little follow-up from knowledgeable persons regarding caring for the horses they had been given by TRF.

75. The TRF satellite farms I visited in Oklahoma and the Lowder farm in South Carolina are examples of large groups of horses being left out in large pastures and cared for by unknowledgeable caretakers who receive inadequate funding. Weather conditions, combined with TRF's history of late or nonpayment to those farms, left many farm managers I spoke to trying to maintain their Thoroughbreds only on grazing ground, when the horses required more feed than can be grown on pasture. Those farms in Oklahoma and South Carolina were maintained in a similar fashion as what is being proposed by the Colorado relocation plan.

76. The press release issued by TRF, stated that the relocation effort would "significantly reduce the TRF's costs." As described above, TRF's history of cost-saving measures has included cutting veterinary and farrier care and decreasing their already inadequate per diem rates.

77. I am extremely concerned about TRF's proposed Colorado relocation plan and what it means for the horses that may be shipped to Mr. McKenna's care.

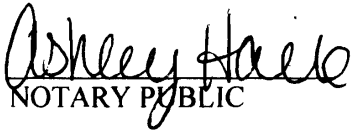
Conclusion

78. I believe that TRF has failed in its stated mission to “provide a retirement home or homes for Thoroughbred race horses.” In my view, the mismanagement, underfunding, and lack of oversight engaged in or tolerated by TRF’s existing leadership will result in the continued suffering and neglect of horses remaining in TRF’s care.


STACEY HUNTINGTON, D.V.M.

Sworn to before me this

30 day of April, 2012


NOTARY PUBLIC

My commission expires

11-9-15

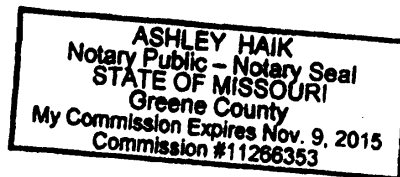


Exhibit 1

Subject: FW: TRF horses moved from 4-H ranch
From: "Julie Walawender" <tjwalawender@aim.com>
Date: Thu, 24 Feb 2011 05:59:43 -0500
To: "Stacey" <3sjeanne333@applewwd.cnc.net>

From: drloafman@aol.com [mailto:drloafman@aol.com]
Sent: Thursday, February 24, 2011 12:26 AM
To: tjwalawender@aim.com
Subject: TRF horses moved from 4-H ranch

Julie,

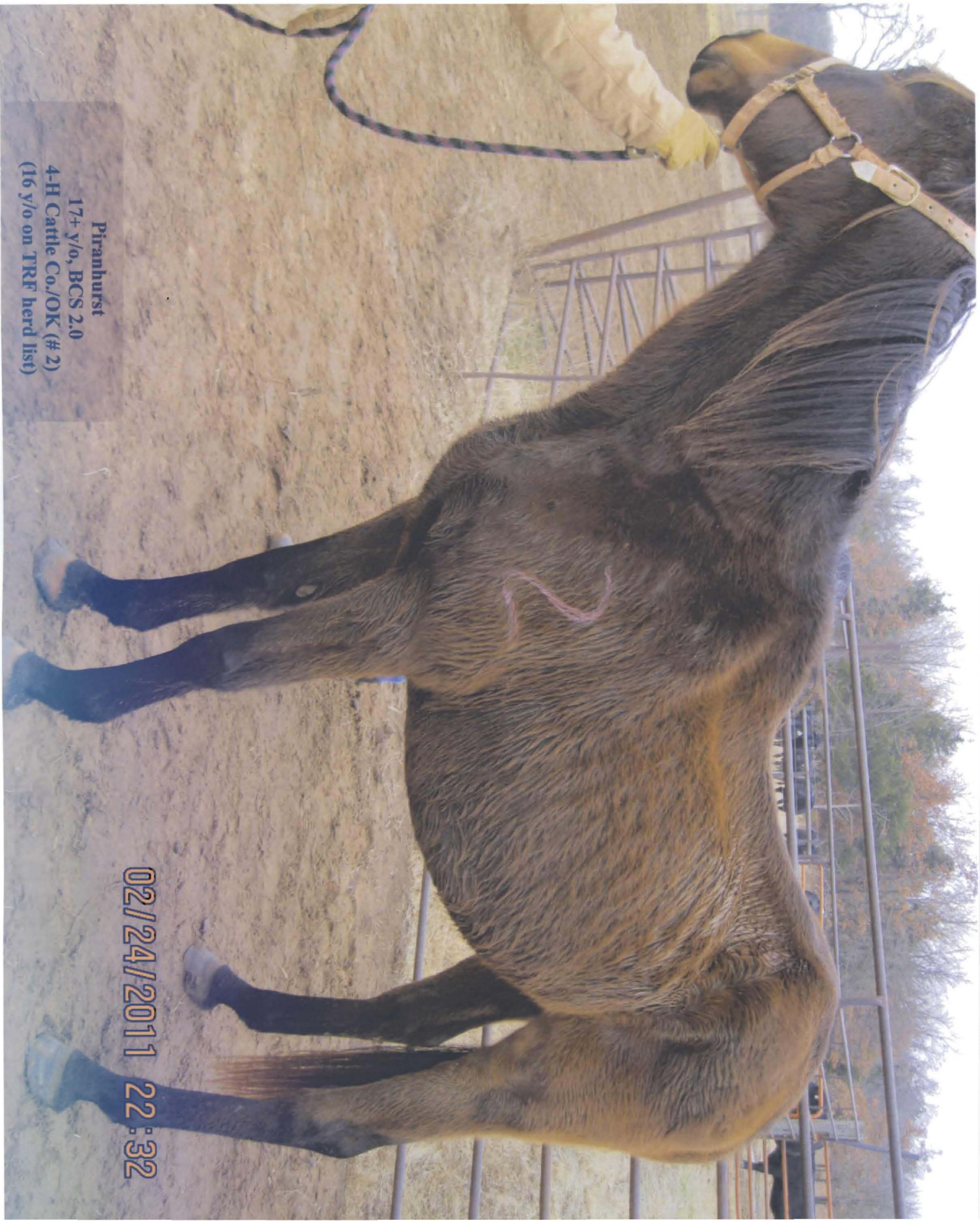
This morning (2-23-11) we loaded and transported 47 of the TRF horses from the 4-H ranch to Dr. Sam Crosby's ranch near Tryon, Oklahoma. All of the horses made the trip without mishap. When we arrived at the 4-H, the horses were wet with sweat from having been run into the pens just prior to our arrival. One mare was very lame on one leg. Three horses were very thin - with one of them have ventral edema, distended abdomen and a body condition score of 1.5 - 2.0. The other two thin horses would score no more than 2.5 body condition. The remaining horses body condition scores are 3.0 - 4.0 with the majority being 3.0 - 3.5. They were thin. However, they all had good attitudes, were alert and bright eyed with no obvious sickness. When unloaded, they all trotted off to get hay and check out their new surroundings. So, while they are thin, they are not sick. (The lame mare was much better when she was unloaded). Attached are some pictures taken today.

Sincerely, T.J.Loafman, D.V.M.





Exhibit 2



Piranhurst
17+ y/o, BCS 2.0
4-H Cattle Co./OK (# 2)
(16 y/o on TRF herd list)

02/24/2011 22:32



Fast Actor
16 y/o, BCS 1.5
4-H Cattle Co./OK (# 31)

02/25/2011 00:03



[Not identified]
13? y/o, BCS 2.0
4-H Cattle Co./OK (# 10)

02/24/2011 22:59

Exhibit 3

I am a licensed veterinarian in Springfield, Missouri. I am under contract to the executors for the estate of Paul Mellon to conduct an inventory and evaluation of the herd of horses belonging to the Thoroughbred Retirement Foundation. This is a herd of approximately 1200 horses that are being housed on several ranches and farms across the country. In the course of my contract to perform this inventory, I have made several trips to Oklahoma and evaluated several hundred horses. I am an equine veterinarian in Springfield and have acted as a consultant and advisor to the Greene County Sheriff's Department for 5 years. In the course of working with Greene County, I commonly am asked to evaluate the animals and management schemes of current cases. I have served as an expert witness several times for the Sheriff's Department in the course of prosecuting these cases.

On February 25, 2011, I evaluated a herd of horses belonging to the Thoroughbred Retirement Foundation near the town of Cushing, Oklahoma. This herd of horses had been housed at Allen (sp?) and Janice Hudgins' property until February 23rd, 2011. The Hudgins' property is located in Okmulgee County close to the city of Okmulgee. The herd had been moved to the property near Cushing on February 23 at the mutual request and agreement between the Hudgins' and the Thoroughbred Retirement Foundation (TRF).

The inventory list for this herd stands at 63 head and I had been told as recently as Monday, February 21, 2011 that that was the number of horses I could expect to evaluate. The total number of horses that were gathered and moved from Hudgins' property numbered only 47 head. Tom Loafman, DVM supervised the loading of the horses at the Hudgins' property on February 23, 2011. He notified TRF of the poor condition of the group and told them that only 47 horses had been recovered from the Hudgins property. No explanation for the missing horses was provided by the Hudgins' at the load-out. On February 25, 2011, each horse was graded for body condition, condition of the hooves, teeth, skin, and eyes, and appropriateness for adoption. I agreed with Dr. Loafman's initial assessment that the condition of the horses was very poor. Of the 47 head, 4 had BCS of 4.75-5.5, 16 had body condition scores of 4.0-4.5, 22 horses were 3.0-3.75, 4 were 2.0-2.75, and 1 horse was 1.5. All of the horses needed farrier care and many had long, split hooves. All of the horses needed dental work with 8 of them being considered to urgently need dental work. The horses were photographed from all four sides during the evaluation, blood was drawn from the horse with the BCS of 1.5, and fecal samples were collected to check for parasites. The horses are currently being fed a good quality of alfalfa hay but research has shown that horses with BCS of 2.5 and less commonly die during the re-feeding process despite good care and monitoring. Because of the several horses that have a BCS of 3.5 and less, some deaths may occur.

My intention in filing this report is to call attention to the poor condition of the horses that had been in the care of the Hudgins' until just recently. I met with Chief Deputy Smokey Patchin after my evaluation on February 25, 2011. He downloaded copies of the photos I had taken of the TRF horses and instructed me in submitting this report via email. My phone number is (417) 860-5115, my email is attached to this report, and my mailing address is PO Box 259, Republic, MO 65738-0259. Dr. Loafman's phone number is (918) 440-8565.

Stacey Huntington, DVM

2/26/2011

Exhibit 4



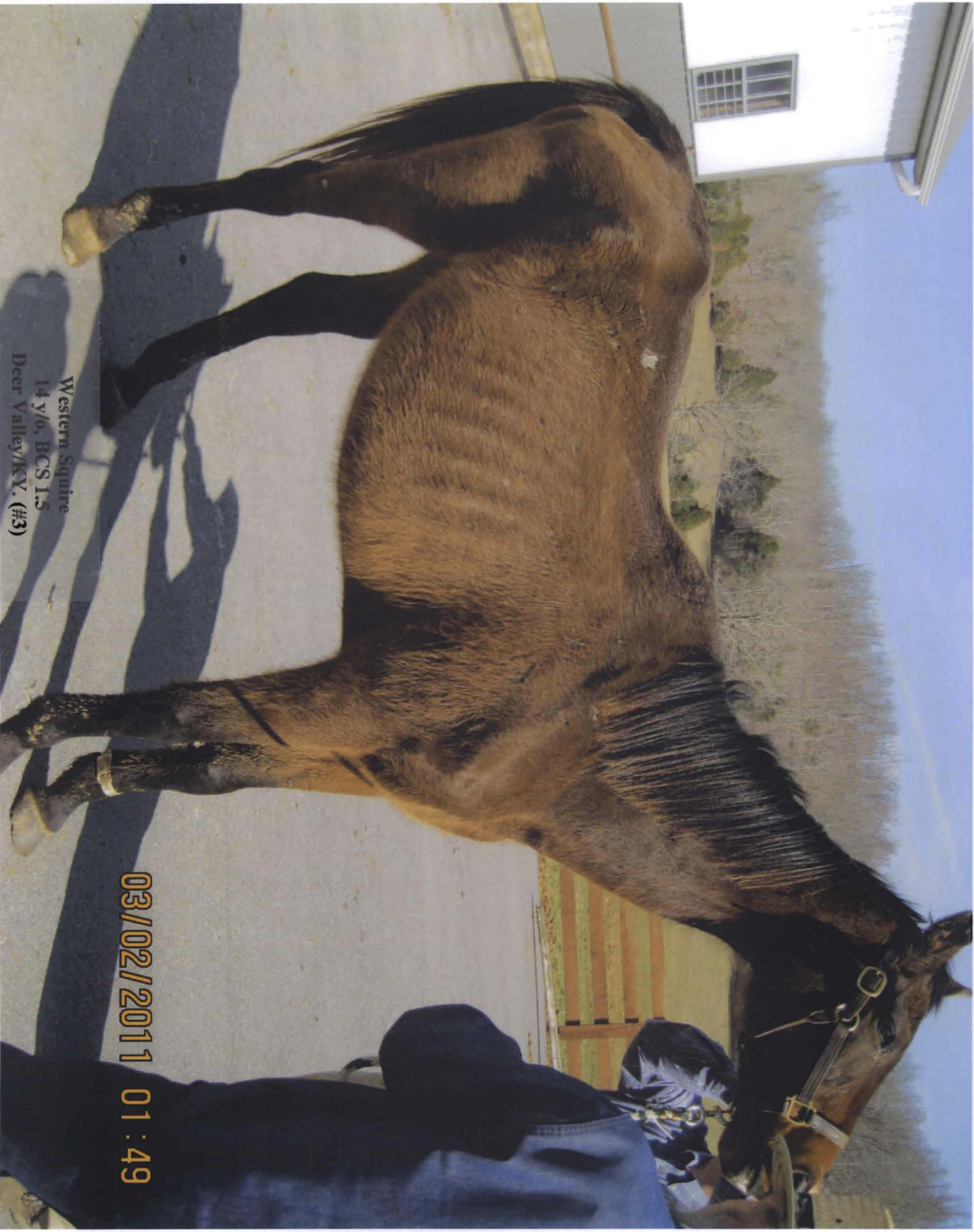
Gold Star
13 y/o, BCS 2.0
Deer Valley/KY. (#1)

03/02/2011 01:44



Pen Eyes
9 y/o, BCS 2.5
Deer Valley/KY. (#2)

03/02/2011 01:47



Western Squire
14 y/o, BCS 1.5
Deer Valley/KY. (#3)

03/02/2011 01:49

Exhibit 5

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**Sound of
My Voice**
Watch Trailer

March 17, 2011

Ex-Racehorses Starve as Charity Fails in Mission to Care for Them

By JOE DRAPE

One of the largest private organizations in the world dedicated to caring for former racehorses has been so slow or delinquent in paying for the upkeep of the more than 1,000 horses under its care that scores have wound up starved and neglected, some fatally, according to interviews and inspection reports.

The group, the Thoroughbred Retirement Foundation, is based in Saratoga Springs, N.Y., just miles from the famous racetrack that annually hosts one of thoroughbred racing's premier meets. For years, it has received millions in donations from some pillars of the industry. But over the past two years, according to the foundation's financial disclosure documents, it has been operating at a deficit, and as a result has not reliably been paying the 25 farms it contracts with to oversee the retired horses.

For example, at the 4-H Farm in Oklahoma, inspectors last month could find only 47 of the 63 retired horses that had been assigned to it. Many of those were starving. The rest had died, probably of neglect, inspectors concluded. Last week, at a Kentucky farm that is also supposed to receive money from the foundation, 34 horses were found in "poor" or "emaciated" condition, inspectors found. One horse had to be euthanized because of malnutrition.

It is unclear how many members of the foundation's blue-chip board of trustees might have been aware of the deteriorating quality of care the horses were receiving. But the foundation's biggest benefactor — the estate of the breeder and owner Paul Mellon — in recent years had become concerned about the growth of the foundation's herd after hearing the complaints of caretakers, and it investigated.

The estate, which in 2001 established a \$5 million endowment for the foundation and subsequently contributed \$2 million more, last December requested that Stacey Huntington, a veterinarian based in Springfield, Mo., evaluate the foundation's herd. So far, Dr. Huntington, along with a local veterinarian in each location, has examined more than 700 horses at more than a dozen farms from Oklahoma to Kentucky and South Carolina. She

found many examples of neglect and lack of support from the T.R.F. in her visits to the farms.

“We have dug ourselves a big hole financially, and we’re still behind,” the foundation’s president, George Grayson, said. “It’s been a struggle to keep up with the costs associated with a large and aging horse population, at a time when the economy and giving is down. Everybody on the board takes any allegation seriously, and anything less than positive circumstances for the horses are unacceptable. When we’ve been made aware of issues, we have responded quickly, and we will on this.”

The cases of neglect, while noteworthy because of the prominence of the organization overseeing the horses, are only the latest embarrassment for an industry that remains vexed by one of its most fundamental challenges: how to humanely look out for horses that no longer have any value at the racetrack or in the breeding shed.

The Thoroughbred Retirement Foundation was founded in 1984 to save racehorses no longer able to compete on the racetrack “from possible neglect, abuse and slaughter,” its mission statement says.

It has been embraced by some of the biggest forces in the sport: the Jockey Club has given the foundation nearly \$250,000 over the past two years, and individual owners — like Mike Repole, the co-founder of Glaceau water and the owner of the current Kentucky Derby favorite, Uncle Mo — have given sizable contributions as well.

Over the years, the foundation’s board has included some of the sport’s most influential owners, and the farms it contracts with have been homes to many of the horses those owners have bred and campaigned. Beam Us Up, an accomplished racehorse bred by Richard Santulli, the former chief executive of NetJets, was recently removed from one of the contract farms because of neglect. Santulli’s wife, Peggy, is on the T.R.F. board.

The findings of the veterinarian hired by the Mellon estate, Dr. Huntington, moved the estate’s trustees to send the farms money for things as basic as food. She found that some 25 percent of the horses have required some kind of urgent care, which the Mellon estate has provided, costing it “tens of thousands” of dollars, said Ted Terry, one of its trustees.

Dr. Huntington found that the foundation’s education of the caretakers and oversight of their farms had been poor. At one farm, Dr. Huntington said, the horses were being fed cattle feed that contained a toxic element.

“The horses are getting the short end of the stick from this group that advertises itself as advocates of horses,” Dr. Huntington said.

The most dramatic instance of neglect discovered so far, she said, was at the 4-H Farm in Okmulgee, Okla., where the owners, Alan and Janice Hudgins, would not let Dr. Huntington onto their property to inspect T.R.F. horses until the foundation gave them \$20,000, a partial payment of what was owed them for taking care of 63 horses since 2005. They also forced the foundation to sign a pledge not to prosecute them for the condition of the horses.

When the horses were released, the 47 survivors were in such poor condition that Dr. Huntington filed a report with the Okmulgee County sheriff's office. Her report included photographs of the malnourished horses, three of them considered starving. Nearly all of them needed urgent care.

Ms. Hudgins said her farm had kept horses for the foundation since 2005, but in recent years it fell into a pattern of falling behind in payments.

In a tough economy with rising fuel and feed costs, Ms. Hudgins said her family got tired of having to settle for less than they were owed by the foundation. She said they had done the best they could with the horses, and had informed the T.R.F. that some older horses had died.

The foundation ran a \$1.2 million deficit in 2009, according to its most recent tax filings with the federal government, three times the total in its previous filing. Its inability to pay the agreed costs for the care of its horses severed a number of relationships with farms, including Claybank Farm in Lexington, Ky., which cared for up to 80 horses.

Interviews with farm owners, as well as e-mail correspondence they provided, showed the foundation was aware of its deepening financial straits — occasionally taking horses from farms where they had been well cared for and placing them elsewhere on the cheap.

Last September, the T.R.F. owed Out2Pasture Farms in Jamestown, Mo., more than \$43,000. The farm, run by two University of Missouri professors, Zachary and Robin Hurst-March, is one of the nation's most highly regarded sanctuaries for thoroughbreds. When the couple pressed for payment, the T.R.F. asked them to reduce their per diem to \$3 a day and eventually removed 13 of their horses.

"I was being emotionally blackmailed to lower my per diem, and was the subject of retribution because I questioned the care of the horses," said Mrs. Hurst-March, who is owed \$10,000.

When Gayle England, whose farm in Stroud, Okla., is also highly regarded as a special-care facility, complained not only of the chronic slow pay but the general lack of regard for the farms and the horses, 26 T.R.F. horses were taken from her.

Last month, some of the horses in the worst shape were taken from other foundation farms and returned to the Hurst-Marsh farm and Ms. England. In fact, one of the 14 horses moved to England's farm with the help and funding of the Mellon Estate had to be put down.

"They were making their administrative payroll this whole time, but the horses they were suffering," Ms. England said. "They need to be held accountable."

Mr. Terry, a Mellon estate trustee, said he still does not know what went wrong.

"We don't know if it was bad judgment, taking on too many horses or bad decisions made internally," he said. "Eventually, we're going to have to ask ourselves if we are throwing good money after bad."

Exhibit 6

Tom Ludt and George Grayson of the Thoroughbred Retirement Foundation and Beverly Carter and Ted Terry, executors for the Mellon estate hired me in December 2010. The purpose of my employment was to evaluate the entire inventory of horses that is owned and/or cared for by the TRF. I was hired based on my resume of several years of experience in working with law enforcement as a professional advisor in cases of animal neglect and abuse. I have testified in numerous trials and hearings in the prosecution of these cases. In the course of the law enforcement investigations, I am asked to evaluate the animals with regard to body condition score, evidence of ill health such as poor skin and infected eyes, evidence of accepted standards of maintenance such as hoof and dental care, and evaluation of the living conditions, i.e. food, water, shelter. As can be seen from the forms I used to evaluate these horses, these were precisely the categories in which each evaluation occurred.

The evaluations were coordinated by TRF. AAEP-member veterinarians from the different locales were also employed to act as a second set of eyes as well as to handle any urgent veterinary needs. Each horse was haltered and a hands-on exam was conducted: the tattoo was checked against the inventory list, a brief exam was conducted including a trot-off, and 4 pictures were taken. The only exceptions were a handful of horses that couldn't be caught. In those cases, whatever information could be gleaned from observing the horses from a distance was entered on the form. The facts are these:

- 1) Just fewer than 860 horses were examined.
- 2) Of those horses, 373 are under the age of 12, 346 are 13-17 years old and 122 are older than 18 years.
- 3) Twenty-five horses had a BCS of less than 3, 116 had a BCS of 3.25-4, 239 had a BCS of 4.25-5, 403 had a BCS of 5.25-6, and 66 had a BCS of >6. TRF states that it regards a BCS of 5-7 as being ideal. If that is the case, then 380 horses in TRF's care have less than ideal body condition scores.
- 4) The body condition scores were NOT correlated with age and occurred in every age range. Of particular concern are the animals with a BCS of less than 4. Not only does it cost more to bring these horses up to ideal weight, they are also more prone to opportunistic diseases and parasitism.
- 5) Recognized maintenance care was lacking in at least 98% of the herd: dental care, vaccinations, appropriate deworming, and farrier care.

In view of these findings, I am making the following recommendations regarding the TRF horses:

- 1) Develop a list of 3-4 vets for every farm who will agree to perform yearly physical exams at no cost and dental work and fecal exams at cost.
- 2) Herd sizes should be no more than 50 horses on a given facility. This will decrease the number of injuries to the horses as well as allow more daily interaction with the individual horses by the caretakers. If the caretakers have smaller groups to work with, they are more likely to catch problems before the problems are well established. This herd size will also decrease the likelihood of caretakers trying to live off of the per diems.
- 3) Aggressively seek support for vaccinations and deworming for every facility. I found great variation in the ability of the caretakers to acquire vaccinations and worming medicine.

- 4) Encourage good relationships with the attending veterinarians and farriers so as to promote better long-term health for the herds. Make sure that the veterinarians' and farriers' bills are paid.
- 5) The elderly horses in the herd could certainly be promoted as ambassadors for TRF. Many of them are in very good shape even though they are in their 20's. Euthanasia based on anything less than quality-of-life issues is usually not appropriate for a rescue so encouraging sponsors for them can offset the higher costs for their care.

It cannot be over-emphasized that decreasing the herd size is paramount to having TRF continue as an organization. While many of the herd will not have second careers due to injuries from their racing, at least 372 horses were evaluated to be possible re-training prospects. Another 90 horses from the Detwiler farm, the recovered 4-H Ranch horses, and Montpelier Station should be re-evaluated for re-training. The horses from Detwiler and 4-H were obviously too thin to consider for re-training at the time of the evaluations and the horses at Montpelier may also offer opportunities for an outside re-training group to succeed.

- 1) TRF must establish cooperative, coordinated efforts with re-training, re-homing groups to find appropriate homes for many of the horses in their herd.
- 2) Develop a list of horses and hold open houses for re-homing, re-training groups to show off possible prospects.
- 3) Perhaps the fostering program could offer more outlets for the horses in TRF's care.

The prison programs offered some possibilities in the evaluations. All of them have very experienced, knowledgeable directors who are providing oversight of the inmates' care of and interaction with the horses. Because the horses are handled very consistently, the prison programs could be utilized to start the re-training process of the horses for possible adoption. Blackburn Correctional currently has over 70 head of horses, the most of any correctional facility. TRF is responsible for the upkeep of the most of the horse facility at Blackburn. The director of that program reports that the number of horses prevents her from resting any of her pastures and that they are steadily deteriorating in condition. I would recommend that the number of horses at Blackburn be reduced to 50 or less.

Overall, the caretakers of the horses are compassionate people who work very hard at caring for the TRF horses. Like every organization, the gold is in the volunteers.

I am making the following recommendations regarding the caretakers:

- 1) Increase the per diem to at least \$ 4.00. Because the caretakers are responsible for purchasing the feed and providing the direct care for the horses, the monthly payments to them must be a priority.
- 2) Develop state or regional coordinators who can assist the caretakers and act as liaisons with the national coordinator of the herd.
- 3) Encourage bulk purchasing of feed within the different regions to be divided up between the farms, i.e. hay could be contracted for and delivered as needed.
- 4) Establish communication and education opportunities for the caretakers. A periodic newsletter and/or webinars could address topics such as nutrition, pasture management, and health concerns. Professionals could be contacted to offer the webinars or educational articles for the newsletter.
- 5) Develop a protocol for mentoring the entry-level caretakers. Regional coordinators would be instrumental in guiding new caretakers, particularly in their first year.
- 6) Two farms are currently being monitored by veterinary oversight on a weekly or monthly basis. This oversight is being paid for by the Mellon Estate. The oversight was indicated by strong or overwhelming evidence of inadequate management but this oversight cannot continue forever. I would recommend closing the Rafter G Ranch and the Detwiler Farm.
- 7) Several ranches and farms are currently housing herds of more than 100 TRF horses. I would recommend that those herds be decreased to no more than 50 horses.
- 8) Montpelier Station is an adoption center for TRF located in Virginia. When I evaluated it, I was struck by the lack of structure and organization at that facility. Many of the horses had moderate to severe skin infections but only some of them were being treated. TRF is paying rent for use of the barns but no TRF horses were being stalled there – only privately owned horses. Only one horse, Tactical AI, was being fed a supplemental ration for weight maintenance but three other horses had considerably lower body condition scores and they were receiving no supplemental feed. One entire pasture of horses was labeled by the full-time trainer as being not adoptable without any other explanation. Although the facility boasted of having it's own funding for veterinary and farrier work, the trainer said they only did veterinary work if a horse's condition began to drop. Fully one-third of the horses at this facility had moderate to severe skin infections over a large part of their bodies. Twelve of the 63 horses were referred for urgent veterinary work. Obviously, the oversight on this facility needs to be improved.
- 9) Holliknoll Farm may be salvageable as a TRF facility with considerable attention from a knowledgeable mentor. The care at this facility is rudimentary and lacking in attention to details. Education and support for the caretakers may allow it to work out. They are generally enthusiastic but they lack training in horse care.

4/25/2011 11:05:27 AM

- 10) The two intensive care farms that I visited, Out2Pasture and Andree Wheeler's farm, are necessary to keep funded at this point. Both facilities are managing to maintain elderly horses that have significant difficulties. But, I believe that TRF will have to compile a 10-year plan that will address the needs of its herd as it ages. As stated before, wholesale euthanasia is not an option for a horse rescue. Perhaps a feed company sponsor could be approached about supplying some of the needs of the senior equine citizens. Certainly, a nutritional consultation can help in establishing diets that are adequate to maintain body condition and be as cost effective as possible. Keeping the horses in consistently good body condition goes a long way towards minimizing veterinary needs.
- 11) Humane euthanasia will need to be a part of TRF's future. Developing a good relationship with a local vet, just as regular vet clients do, will help the caretakers and vet together to make the decision when to euthanize. Quality of life is the first consideration; age is lower on the list for most rescues.

I believe that a good group of volunteers and other smaller rescue organizations will help to ease TRF's burden if only to help the horses. But TRF has to recognize that their problems are of their own making. Only a 180-degree shift in attitude can help this organization survive.

Stacey Huntington, DVM 3/27/11

Stacey Huntington, DVM

3/27/11

Exhibit 7

STATEMENT OF THE HERD COMMITTEE

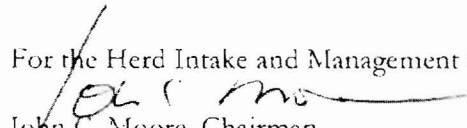
The Herd Committee has now gathered enough information from veterinarian visits, personal inspections by TRF staff, and by other means to be able to assure the TRF Board and our loyal supporters that, contrary to the sensational claims in the New York Times that "scores" of horses were starving and dying while under our care, *we did not find that any horses died of starvation or neglect*. While we estimate that 10% of the herd was below ideal weight at the time of the veterinarian inspections, the herd is in good overall condition.

The analysis of our farms has shown that most of the underweight horses were found to be on two farms in Oklahoma where farm managers struggled through a particularly severe winter, and one in Kentucky, where the farm manager was simply behind on his learning curve. Moreover, many of the problems were found in older horses. Allegations concerning "missing horses" which the New York Times stated "probably died of neglect" were even contradicted by the veterinarian relied upon by the "reporter" – she recognized that data errors were more likely the cause. And in all but a few instances, "urgent care" recommendations by that veterinarian, most of which related to dental work, were found by other veterinarians to be without merit.

The purpose of our inquiry was not to impugn the statements of the veterinarian whose reports were quoted by the New York Times, but to ascertain the true facts, assess the condition of the herd, take appropriate action as required, and to make suggestions to the TRF Board concerning future intake, euthanasia policy, and management of the herd.

Our review of the herd, farm procedures and delivery of necessary veterinary services revealed minor weaknesses in our supervision of the farm managers at our satellite farms. Plans and procedures are being modified to ensure that proper care continues to be given to the herd. Most significantly, we recommend that the TRF fill the now vacant position of Operations and Farm Liaison Manager as quickly as possible. The Herd Committee is confident that, as long as the TRF has the economic resources to carry out its mission, the horses in its care will either continue to find new careers with adopters or to experience exactly the happy retirement that these fine former athletes deserve.

For the Herd Intake and Management Committee


John C. Moore, Chairman

April 20, 2011

Exhibit 8

**KENTUCKY DEPARTMENT OF AGRICULTURE**

A Consumer Protection And Service Agency • Richie Farmer, Commissioner

Office of the State Veterinarian, Robert C. Stout, DVM • www.kyagr.com

100 Fair Oaks Lane, Suite 252, Frankfort, KY 40601 • Phone (502) 564-3956 • Fax (502) 564-7852

Investigation / Complaint Form

Date / Time Received: Monday, May 02, 2011 11:15:03 AM		OSV ID#163	
Method Received:	In person <input type="checkbox"/>	By phone <input type="checkbox"/>	In writing <input checked="" type="checkbox"/>
Received by: Stovall via OSV email			
Complainant: Dr. Stacey Huntington		Phone #: 417-860-5115	
Address:			
City/State/Zip:			
Person/Farm/Company Complaint made on: Thoroughbred Retirement Foundation			
Satellite farm belonging to: Sam Detweiler			
Address:		1023 E Sullivan Road	
City/State/Zip:		Mumfordsville KY 42765	
GPS location of incident:	(latitude)	(longitude)	
Nature of complaint: 33 starving horses. Dr. Huntington claimed to have been hired by the TRF to do quality control checks at their satellite farms. She alleged that out of the 33 horses TRF has residing at the Detweiler farm that 3 of the were BCS'd by her as 2.5's and the other were 4's and 5's. She said that one had been put down the week before she went there, and that the TRF was 60 days behind in paying for and/or providing food for the horses. She also said that she was fired by the TRF over her report regarding this farm.			
Investigator assigned to: Stovall		5/2/11	
Investigative summary: On Tuesday 5/3/11 I (Inv Stovall) went to the farm of Sam Detweiler. I spoke with Mr. Detweiler and visually inspected the horse there. As the horses were loose in two different pasture areas, that included wooded areas that the horses had free access to; I had a hard time getting a good count, but estimated there to be approximately 30 horses visible at various times. All the horses I could see I rated between 4 and 6 on the BCS. Mr. Detweiler said that the TRF had hired a new local vet for him (named Donald Brockman 270-465-0313 out of Bowling Green) and that a Leslie Priggen (914-388-2292) who was the Herd Manager for the TRF had visited his farm last week. He also stated that the TRF was only about 30 days in arrears but was supplying him good alfalfa hay and feed. He also said that he was under the impression that Dr. Huntington was not in the employee of the TRF but had been hired by a different charitable foundation (possibly the Mellon Group or something like that). According to Mr. Detweiler the vet has had to put 3 of the horses down recently for various medical reasons, but said that malnourishment was not the cause. In the case of Mr. Detweiler's farm I did not see any horses that I could currently say were being neglected under the Ky Revised Statutes current standards. The farm has plenty of land per horse in my opinion (100 acres) and now that spring is coming on, the pasture grass is adding to the hay and feed available.			

**KENTUCKY DEPARTMENT OF AGRICULTURE***A Consumer Protection And Service Agency* • Richie Farmer, CommissionerOffice of the State Veterinarian, Robert C. Stout, DVM • www.kyagr.com

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Investigation / Complaint Form

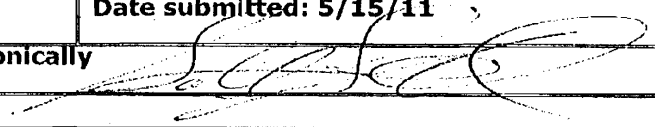
Action taken: none	
Photos taken? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	By:
Investigation date: 5/3/11	Date submitted: 5/15/11
Investigator's signature: submitted electronically 	
Supervisor's signature:	Date:
Supervisor's comments:	

Exhibit 9

Claire Evans

From: Della Peruta, Patricia [pdellaperuta@stblaw.com] on behalf of Barry R Ostrager [bostrager@stblaw.com]
Sent: Thursday, January 26, 2012 1:06 PM
To: David Nachman; Claire Evans
Subject: TRF Release



Release

For Immediate

Press Release

Media Contact
Charles V. Zehren
Senior Vice President
Rubenstein Associates,
Inc.
212-843-8590
czehren@rubenstein.com

Thoroughbred Retirement Foundation in Talks with Supporter to Stable 600 Retired Horses on Colorado Ranch

Charity Bolstered by Increased Support

Saratoga Springs, NY (January 26, 2012) – The Thoroughbred Retirement Foundation (TRF) today announced that it signed a non-binding letter of intent to relocate as many as 600 horses from separate facilities throughout the U.S. to the care of leading Thoroughbred racehorse breeder and owner Tom McKenna at his 45,000 acre Cucharas Ranch near Walsenburg, Colo.

McKenna's proposal would provide attentive and experienced care for the horses at his ranch where he currently maintains a number of his Thoroughbreds. It would assist the TRF financially as McKenna would be donating a large portion of care and services thereby significantly reducing the TRF's costs. Further negotiations and detailed onsite review of the ranch, which is deed-restricted from development for at least 60 years, are scheduled in the near future. McKenna's approach to the TRF comes amid an increase in overall financial contributions to the charity, which provides homes for retired racehorses that would otherwise be slaughtered for their meat and sold in foreign markets. In recent weeks, in addition to its regular stream of contributions, the TRF has received major new donations and payments from Darley Stud, the Jockey Club, New York Thoroughbred Breeders and private donors totaling more than \$350,000. Thoroughbred owner and breeder Paul Saylor also has agreed to match any financial gift to the TRF, up to \$50,000, to spur additional support.

John Moore, Chairman of the TRF said, "Notwithstanding a difficult economic environment, all of the major stakeholders and many prominent sportsmen in the thoroughbred breeding and racing community have rallied around

the mission of the TRF and collectively taken steps to ensure the future financial stability of the TRF and the success of the TRF mission. I am enormously grateful to everyone who has shown unflagging support for the TRF and the important work we do.”

TRF President Mike Lakow said, “The TRF is off to a fantastic start in 2012. We’ve kicked off with a series of significant donations which serves as a tremendous vote of confidence for the TRF and its mission. It’s gratifying to see that so many leading industry participants are actively supporting our work and addressing the difficult and important issues posed by caring for retired thoroughbred race horses who gave us all so much pleasure and excitement during their brief racing careers. Attracting more successful owner/breeders has always been a major goal of the TRF, and we are intrigued with the prospect of reaching an agreement with Tom McKenna, a respected owner and breeder who hasn’t previously contributed to the TRF. It’s quite exciting.”

About The Thoroughbred Retirement Foundation (TRF)

The Thoroughbred Retirement Foundation (TRF) is the largest equine sanctuary in the world devoted to the rescue, retirement, rehabilitation and retraining of Thoroughbred racehorses no longer able to compete on the track. We currently care for over 1,050 retired and rescued racehorses and have adopted out more than 800 to loving homes. At re-training farms around the country, we prepare racehorses for adoption as riding and companion horses. At eight correctional facilities, inmates build life skills while participating in a vocational training program as they provide supervised care to our retired horses. The Thoroughbred Retirement Foundation is a place that offers a humane alternative to the dire possibilities that have long faced a great majority of ex-racers - neglect, abuse and slaughter. It is a place, built on love and caring, that is befitting such noble and deserving animals. As a registered 501(c)3 organization, the TRF receives no public funding and is entirely dependent on the generosity of private individuals.

Horse

Exhibit 10



In This Section

LEADING LOUISIANA SIRES
BY EARNINGS

LEADING OKLAHOMA SIRES
BY EARNINGS

LEADING NEW MEXICO SIRES
BY EARNINGS

LEADING TEXAS SIRES
BY EARNINGS

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Cowboy Care

*Tom and Sandy McKenna
raise runners the "cowboy way"*

BY DAVID SCHMITZ

Tom and Sandy McKenna believe in the "cowboy way" when it comes to raising good horses at their 1,200-acre McKenna Thoroughbreds near Taiban in the eastern part of New Mexico.

"It's wide, open fields and a hands-on approach with everyone on the ranch doing their part," Tom McKenna said. "Everyone picks up a shovel."

McKenna, 74, who grew up near El Paso, Texas, got an early start in racing. "My grandfather, a corporate judge in El Paso, had both Thoroughbreds and Quarter Horses, and at 12, I started riding in lap-and-tap races for him," he said. "The races were out in the boondocks. They went out and cleared off an area of land for them."

In a lap-and-tap race, horses are ridden slowly to the starting line, and if they are closely lapped when they arrive there, they are "tapped off" by the starter. Once they are tapped off, the race is on.

The McKennas honor the memory of the judge by campaigning their runners in the name Judge Lanier Racing.

The couple started in the Thoroughbred business after attending a Thoroughbred Owners and Breeders Association seminar earlier this decade. At the time, they owned a ranch near Walsenberg, Colo.



From left, Tom and Sandy McKenna with farm manager David Sprissler and veterinarian David Orton

2009 Leading Sires in Louisiana

State sire lists updated daily online.
Go to <http://breeding.bloodhorse.com/sirelists.asp>

For stallions that stand, will stand, or stood (deceased) in Louisiana (exported stallions are excluded), and have runners in North America. Listed below are all available statistics for the Northern Hemisphere through December 2, 2009. As supplied to The Blood-Horse by The Jockey Club Information Systems Inc., earnings exclude monies from Japan and Hong Kong. *Foal counts include Southern Hemisphere. Cumulative stakes winners includes all countries. (A *) indicates a sire represented by his first crop to race.

Rank	Stallion (Foaling Year, Sire), Farm Standing	2010 Stud Fee	Rnrs/ Wnrs	Stakes Wnrs/ Wnrs	Rstrct SW/ BT SW	(Chief Earner, Earnings)	2009 Earnings	Cumulative Foals	Stks Wnrs	*A-E Index	*Comp Index
1	YONAGUSKA (98, Cherokee Run), Elite Thoroughbreds	\$5,000	204/119	6/8	1/6	(Musket Man, \$836,000)	\$4,906,952	*377	11	1.27	1.33
2	BRAHMS (97, Danzig), Elite Thoroughbreds	\$3,500	155/91	5/5	2/5	(Bad Action, \$288,905)	\$2,894,223	*465	10	1.10	1.06
3	YANKEE GENTLEMAN (99, Storm Cat), Le Mesa Stallions	\$5,000	108/57	3/4	0/3	(Supermodel, \$123,414)	\$2,388,371	171	6	1.51	1.38
4	IDE (93, Forty Niner), Clear Creek Stud	\$2,500	114/54	3/4	2/3	(Shezacrazygirl, \$172,800)	\$2,167,627	396	15	1.28	1.16
5	LEESTOWN (94, Seattle Slew), Red River Farms	Died, 2008	177/56	2/2	2/2	(Lee City Slew, \$103,931)	\$2,016,918	441	15	0.93	0.99
6	SNUCK IN (97, Montbrook), Matthews Thoroughbred Farm	\$2,000	123/71	1/1	1/1	(Sneak a Cold Treat, \$97,260)	\$1,684,281	249	4	0.94	1.01
7	SEFAPIANO (89, Fappiano), Landlock Equine Center	\$2,500	67/33	5/9	3/5	(Jonesboro, \$585,110)	\$1,667,522	296	22	1.39	0.97
8	GOOD AND TOUGH (95, Carson City), Elite Thoroughbreds	\$3,000	100/49	0/0	0/0	(Jemilyn, \$178,120)	\$1,665,277	*287	11	1.31	1.23
9	GOLD TRIBUTE (94, Mr. Prospector), Red River Farms	\$2,000	96/48	2/2	0/2	(Cajun Conference, \$121,300)	\$1,609,033	*354	6	1.06	1.18
10	RICHTER SCALE (94, Habitony), Chad & Pat White Farms	\$2,500	114/54	0/0	0/0	(Rock Hard Candy, \$74,880)	\$1,231,996	305	7	0.83	1.42
11	TIME BANDIT (96, Time for a Change), Heritage Stud	\$2,000	75/38	0/0	0/0	(Yare, \$147,720)	\$1,231,007	175	3	1.04	0.99
12	AFTERNOON DEELITES (92, Private Terms), Clear Creek Stud	\$3,000	101/39	1/2	1/1	(Classy Deelites, \$201,500)	\$1,193,797	*492	22	1.24	1.51
13	ROSSINI (97, Miswaki), Elite Thoroughbreds	\$2,000	126/47	1/1	1/1	(Ailbe, \$95,898)	\$1,187,816	*393	6	0.68	0.85
14	ROBYN DANCER (87, Crafty Prospector), Shady Lane Farm	N/A	90/45	2/2	1/2	(Fancy Runner, \$159,390)	\$1,041,308	623	22	1.14	1.36
15	ZARBYEV (84, Nureyev), Foxwood Plantation	\$3,500	54/24	2/3	2/2	(Zarb's Ballerina, \$175,100)	\$927,186	*289	14	1.15	0.90
16	SCRIMSHAW (00, Gulch), Millennium Farms at Moon Lake	\$2,500	61/33	1/2	1/1	(Single Scoop, \$71,910)	\$892,920	92	2	0.94	1.00
17	HONOR GLIDE (94, Honor Grades), Fanlew Farms	\$2,500	61/33	1/1	0/1	(Euroglide, \$93,332)	\$849,462	133	2	0.71	1.16
18	PORTO FORICOS (95, Mr. Prospector), Clear Creek Stud	\$1,500	37/13	1/1	1/1	(Mr. Foricos Two U, \$307,766)	\$823,893	108	5	1.61	1.24
19	RUN PRODUCTION (00, Saint Ballado), Foxwood Plantation	\$1,500	25/17	1/1	1/1	(Productive Envoy, \$172,460)	\$736,196	50	3	1.68	0.99
20	TETON FOREST (01, Forestry), Elite Thoroughbreds	\$2,500	42/21	1/1	1/1	(Deltalicious, \$86,510)	\$707,627	84	1	0.95	1.10
21	LITTLEEXPECTATIONS (97, Valid Appeal), Millennium Farms at Moon Lake	\$2,000	55/25	2/5	1/2	(Seven Seventythree, \$167,100)	\$690,923	114	3	0.95	1.12
22	MILLENNIUM WIND (98, Cryptoclearance), 519 Thoroughbreds	\$2,000	83/28	1/1	0/1	(Whirlwind Poppy, \$57,714)	\$687,158	*215	3	0.58	1.39
23	EASYFROMTHEGITGO (99, Dehere), Ryder River Ridge Farm	\$2,000	43/16	1/2	0/1	(Happyfromthegitgo, \$169,710)	\$622,305	81	1	0.77	1.08
24	TOOLIGHTTOQUIT (92, Dixieland Brass), Ryder River Ridge Farm	\$2,000	33/18	2/2	2/2	(Coach Mike, \$92,000)	\$604,593	128	7	1.10	1.10
25	FINEST HOUR (94, Forty Niner), Camelot Farm	\$2,000	69/21	0/0	0/0	(Sparkling Diamond, \$64,700)	\$600,455	256	4	0.71	0.80

*A-E and COMPARABLE INDEX: The lifetime Average-Earnings Index indicates how much purse money the progeny of one sire has earned, on the average, in relation to the average earnings of all runners in the same years; average earnings of all runners in any year is represented by an index of 1.00. The Comparable Index indicates the average earnings of progeny produced from mares bred to one sire, when these same mares were bred to other sires. Only 32% of all sires have a lifetime AEI higher than their mares Comparable Index.

"We went to the TOBA seminar and that whetted our interest in racing and breeding," McKenna said. "I checked out some programs, including one in Louisiana, but liked the incentives in New Mexico best."

The McKennas, who still own their Walsenberg ranch, took their time before choosing New Mexico as a place to start a breeding operation.

"We spent two years looking at differ-

ent properties," McKenna said. "This place is nice because it had been a racehorse operation and is only 3½ hours from our Colorado ranch."

"When we went looking for broodmares, we went to Kentucky and California, focusing on winners or mares that had produced winners. During the time we bought the mares, we didn't think we'd go into the stallion business but that

changed."

The McKennas stand Dominique's Cat and K.O. Punch at their ranch. Both stallions were at stud when the McKennas bought them.

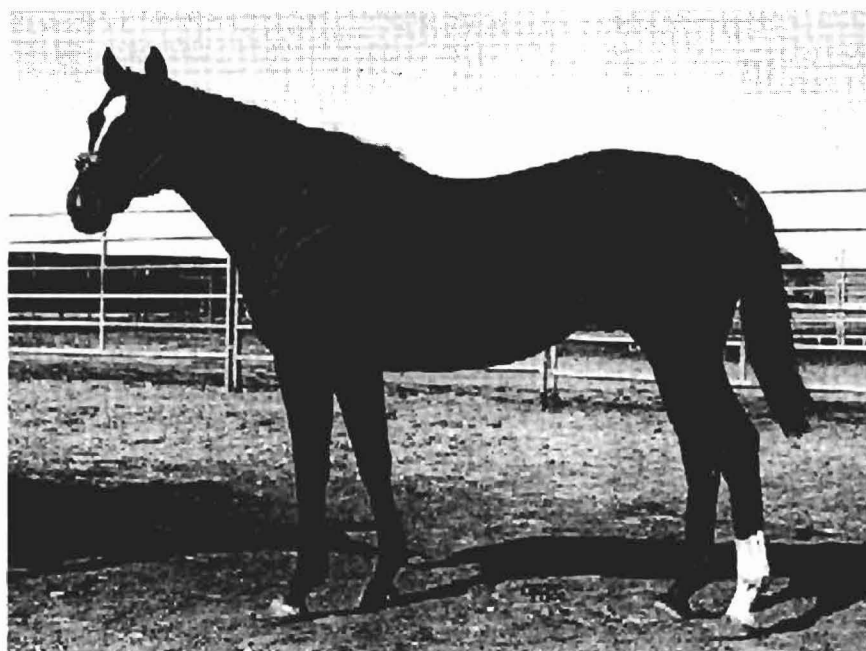
Dominique's Cat, purchased by Tom McKenna for \$30,000 at the 2005 Barretts January sale, offered exceptional bloodlines. The son of leading sire Storm Cat was produced from champion Eliza. By Mt. Livermore, Eliza was voted 1992 champion 2-year-old filly after winning the Breeders' Cup Juvenile Fillies (gr. I). Her credentials at 3 included a triumph in the Santa Anita Oaks (gr. I).

Dominique's Cat stood his first season at McKenna Thoroughbreds in 2005. Runners from his first New Mexico-bred crop are 3-year-olds. One of them, Cat's Simon, bred by McKenna Farms, has won four races this year.

K.O. Punch stood at Rick Trontz' Hopewell Farm near Midway, Ky., when the McKennas bought him.

"I met Rick while I was buying mares in Kentucky," McKenna said. "He showed me K.O. Punch, who was a heck of a sprinter. Rick got me thinking about buying K.O. Punch. We messed around for a couple of years before the syndicate that owned him finally decided to sell him."

K.O. Punch (Two Punch—Joanie's Princess, by Joanie's Chief) first stood at McKenna Thoroughbreds in 2006. Runners from his first New Mexico-bred crop are 2-year-olds and include Mean Jean, a first-



Dominique's Cat, by Storm Cat, joined the farm's roster in 2005

2009 Leading Sires in Oklahoma

State sire lists updated daily online.
Go to <http://breeding.bloodhorse.com/sirelists.asp>

For stallions that stand, will stand, or stood (deceased) in Oklahoma (exported stallions are excluded), and have runners in North America. Listed below are all available statistics for the Northern Hemisphere through December 2, 2009. As supplied to The Blood-Horse by The Jockey Club Information Systems Inc., earnings exclude monies from Japan and Hong Kong. *Foal counts include Southern Hemisphere. Cumulative stakes winners includes all countries. (A ♀ indicates a sire represented by his first crop to race).

Rank	Stallion (Foaling Year, Sire), Farm Standing	2010 Stud Fee	Rnrs/ Wnrs	Stakes Wnrs/ Wns	Rstrct SW/ BT SW	(Chief Earner, Earnings)	2009 Earnings	Cumulative Foals	Stks Wnrs	*A-E Index	*Comp Index
1	TACTICAL CAT (96, Storm Cat), Diamond G Ranch	\$2,000	139/71	3/5	1/3	(Wishful Tomcat, \$140,145)	\$2,092,216	427	23	1.18	1.34
2	SERVICE STRIPE (91, Deputy Minister), Rockin Z Ranch	\$2,000	104/56	1/2	0/1	(Field Commission, \$560,309)	\$1,726,694	309	15	1.30	1.12
3	EVANSVILLE SLEW (92, Slew City Slew), Diamond G Ranch	\$2,000	96/52	4/4	3/4	(Kizzy's Chaos, \$110,840)	\$1,535,488	*386	30	1.20	0.95
4	ARTAX (95, Marquetry), Diamond G Ranch	\$2,000	101/41	1/1	1/1	(Diabolical, \$293,601)	\$1,532,913	373	6	1.08	1.42
5	DIAMOND (95, Mr. Prospector), Oklahoma Equine	N/A	69/31	0/0	0/0	(Movin' Out, \$234,460)	\$1,180,821	230	5	1.22	1.13
6	DANCE MASTER (97, Gone West), JEH Stallion Station-Oklahoma Division	\$1,500	101/44	2/2	1/2	(Master Link, \$94,510)	\$1,136,437	179	7	0.98	1.14
7	MALABAR GOLD (97, Unbridled), Winner's Circle Farms	N/A	114/42	1/1	0/1	(Dynamite Bob, \$94,784)	\$1,115,930	*213	3	0.68	1.13
8	OMEGA CODE (00, Elusive Quality), Rockin Z Ranch	\$2,000	98/45	1/1	0/1	(Code of Honour, \$129,160)	\$1,084,796	162	2	0.72	1.32
9	LUCKY LIONEL (93, Mt. Livermore), Diamond G Ranch	\$2,000	65/29	0/0	0/0	(Benny the Bull, \$131,800)	\$821,724	256	11	1.27	1.28
10	KING OF SCAT (96, Eastern Echo), Raywood	\$2,000	57/31	1/1	1/1	(Concert King, \$62,059)	\$606,897	150	9	0.77	0.77

*A-E and COMPARABLE INDEX: The lifetime Average-Earnings Index indicates how much purse money the progeny of one sire has earned, on the average, in relation to the average earnings of all runners in the same years; average earnings of all runners in any year is represented by an index of 1.00. The Comparable Index indicates the average earnings of progeny produced from mares bred to one sire, when these same mares were bred to other sires. Only 32% of all sires have a lifetime AEI higher than their mares Comparable Index.

2009 Leading Sires in New Mexico

State sire lists updated daily online.
Go to <http://breeding.bloodhorse.com/sirelists.asp>

For stallions that stand, will stand, or stood (deceased) in New Mexico (exported stallions are excluded), and have runners in North America. Listed below are all available statistics for the Northern Hemisphere through December 2, 2009. As supplied to The Blood-Horse by The Jockey Club Information Systems Inc., earnings exclude monies from Japan and Hong Kong. *Foal counts include Southern Hemisphere. Cumulative stakes winners includes all countries. (A ♀ indicates a sire represented by his first crop to race).

Rank	Stallion (Foaling Year, Sire), Farm Standing	2010 Stud Fee	Rnrs/ Wnrs	Stakes Wnrs/ Wns	Rstrct SW/ BT SW	(Chief Earner, Earnings)	2009 Earnings	Cumulative Foals	Stks Wnrs	*A-E Index	*Comp Index
1	SUAVE PROSPECT (92, Fortunate Prospect), Doubletree Farm	\$4,000	110/63	3/3	1/3	(Talented Princess, \$97,090)	\$1,641,339	358	16	1.21	1.08
2	GOLD CASE (94, Forty Niner), Mesa Vista Stud	\$5,000	100/55	1/3	1/1	(Red Hot N Gold, \$153,023)	\$1,510,864	*461	20	1.19	1.19
3	GHOSTLY MOVES (92, Silver Ghost), Callaway Farm	\$4,000	57/29	7/8	7/7	(Some Ghost, \$134,345)	\$1,365,856	154	18	1.30	1.06
4	FAVORITE TRICK (95, Phone Trick)	Died, 2006	78/38	2/3	0/2	(F Swoop Trick, \$91,448)	\$1,104,100	*478	21	1.06	1.69
5	CHIMES BAND (91, Dixieland Band)	Died, 2005	53/29	3/5	3/3	(Let the Musicbegin, \$152,355)	\$1,045,673	311	23	1.20	1.32

*A-E and COMPARABLE INDEX: The lifetime Average-Earnings Index indicates how much purse money the progeny of one sire has earned, on the average, in relation to the average earnings of all runners in the same years; average earnings of all runners in any year is represented by an index of 1.00. The Comparable Index indicates the average earnings of progeny produced from mares bred to one sire, when these same mares were bred to other sires. Only 32% of all sires have a lifetime AEI higher than their mares Comparable Index.

start winner at Ruidoso Downs Race Track & Casino.

McKenna credits farm manager David Sprissler and breeding center manager Andres Olivas with much of the farm's success.

"Dave moved down here from Pennsylvania and has 17 years in the business," McKenna said. "Andres has spent a lifetime in the horse business and is probably the best stallion man in the state."

McKenna also tips his hat to Sandy.

"She's got more horse background than any woman I can think of," he said.

Another key member for the McKennas is veterinarian David Orton, who provides state-of-the-art veterinary care on the farm.

McKenna is a big proponent of raising runners the cowboy way—in huge, scruffy fields.

"The foals are out there in these big, up-and-down pastures that are filled with rocks, gullies, and mesquite bushes, the whole works," he said. "They get out there romping and running, and they learn how to put their feet down, avoid obstacles, and change leads, things they don't do in a manicured pasture. They get bone development, build an attitude, the whole works."

"The mares are in this program all the time. They stay in good condition because they're out in a big pasture and that keeps their muscles toned, and they have less of a problem foaling because of that."

"We don't break our horses at the track. We've got a cowboy here, and he breaks horses the cowboy way. We use a western saddle and a snaffle bit. We don't try to put a rein on them like you would a performance horse. He rides them in the open country and gets them to respond to the rein, where you can put a saddle on them



K.O. Punch, a son of Two Punch, moved from Kentucky in 2006

2009 Leading Sires in Texas

State sire lists updated daily online.
Go to <http://breeding.bloodhorse.com/sirelists.asp>

For stallions that stand, will stand, or stood (deceased) in Texas (exported stallions are excluded), and have runners in North America. Listed below are all available statistics for the Northern Hemisphere through December 2, 2009. As supplied to The Blood-Horse by The Jockey Club Information Systems Inc., earnings exclude monies from Japan and Hong Kong. *Foal counts include Southern Hemisphere. Cumulative stakes winners includes all countries. (A ♯ indicates a sire represented by his first crop to race).

Rank	Stallion (Foaling Year, Sire), Farm Standing	2010 Stud Fee	Rnrs/ Wnrs	Stakes Wnrs/ Wns	Rstrct SW/ BT SW	(Chief Earner, Earnings)	2009 Earnings	Cumulative			
								Foals	Sks Wnrs	*A-E Index	*Comp Index
1	VALID EXPECTATIONS (93, Valid Appeal), Lane's End Texas	\$10,000	115/79	7/9	5/7	(Camille's Appeal, \$165,150)	\$2,538,082	481	37	1.39	1.29
2	PINE BLUFF (89, Danzig), Duncan 21 and Change Farm	N/A	69/36	0/0	0/0	(Who's Bluffing, \$88,885)	\$1,153,432	*568	34	1.58	1.68
3	EARLY FLYER (98, Gilded Time), Valor Farm	\$3,000	52/24	1/1	0/1	(Rare Flyer, \$64,798)	\$679,073	92	4	1.08	0.94
4	MAGIC CAT (95, Storm Cat), Valor Farm	\$1,500	65/24	2/2	0/2	(Smoothcideup, \$61,525)	\$612,615	181	11	0.75	1.00
5	DIXIELAND HEAT (90, Dixieland Band), Richland Ranch	\$1,500	42/19	0/0	0/0	(Dixie Dust, \$72,144)	\$537,694	*245	9	1.16	1.03

*A-E and COMPARABLE INDEX: The lifetime Average-Earnings Index indicates how much purse money the progeny of one sire has earned, on the average, in relation to the average earnings of all runners in the same years; average earnings of all runners in any year is represented by an index of 1.00. The Comparable Index indicates the average earnings of progeny produced from mares bred to one sire, when these same mares were bred to other sires. Only 32% of all sires have a lifetime AEI higher than their mares Comparable Index.

and they stand still.

"Most of them go to Jerry Nicodemus at Double Eagle Training Center near Roswell (N.M.). Jerry, who gallops them for us, made the comment that of all the horses he's had, these are the best-broke babies he's ever seen in his life, and Jerry's been in the horse business his whole life."

New Mexico is not free of the economic woes that have plagued other states. "The recession has affected the horse business, and New Mexico is no different," McKenna said. "Our two stallions did get a lot of outside mares, but I don't think we're going to get nearly the number of mares like we did. It's not going to be good for anyone."

"We can't sell a yearling now for the cost of production. The only thing we'll be breeding next year is our very top mares, about 15 of them. And we're going to run everything we produce. At this point, the purses are still good, and the casinos have not been impacted that badly. We've got to keep these tracks in business and keep racing healthy."

"Mine That Bird (who won the 2009 Kentucky Derby Presented by Yum! Brands, gr.

I, after running in two prep races at Sunland Park in New Mexico) was a big shot in the arm even though he wasn't a New Mexico-bred. He helped draw attention to the state. It's great that he came along, and I hope we have another like him."

The McKennas are blessed in the way of close proximity to four of the five New Mexico tracks. "With the exception of Sunray (Park & Casino) near Farmington, the other four tracks are less than 3½ hours away," McKenna said.

In addition to Sunray and Ruidoso, the other New Mexico tracks are The Downs at Albuquerque, Sunland Park Racetrack & Casino, and Zia Park.

McKenna is high on a 2-year-old homebred Medaglia d'Oro colt named McKenna's Justice. Campaigned in the name of Judge Lanier Racing, McKenna's Justice broke his maiden at Lone Star Park and then ran fourth, beaten three-quarters of a length, in the Sunny's Halo Stakes at Louisiana Downs.

"We're expecting big things from him," McKenna said. "He has a little injury so he's back at the ranch. We'll take him off

the turf and race him on the dirt.

"We're also expecting big things from his half-brother Wholelottaenergy (by Unbridled Energy). He'll be 2 next year."


McKenna feels horsemen are well represented by the New Mexico Horse Breeders Association. "They do a good job promoting racing," he said. "It's a good, dynamic organization. We've had quite a few breeders from out of state bring mares and stallions here."

In a release issued by the NMHBA Nov. 30, the organization announced it had distributed \$4,460,495 in award monies to owners, breeders, and stallion owners from Sept. 13, 2008, through Sept. 27, 2009. The amount compares favorably to the \$4,533,987 distributed during the preceding period when economic times were rosier.

Breeders' awards for the same period totaled \$2,181,765; owners' awards amounted to \$1,939,345; and stallion owners' awards totaled \$339,385.

As good as McKenna feels about the conduct of the NMHBA, he feels the New Mexico Horsemen's Association falls short of expectations.

"As far as the Horsemen's Association, it's the complete opposite," McKenna said. "The main thing is owner involvement. We've got 5,000 owners racing in the state, and a good many of them are from out of state. Most of them didn't know they were part of the NMHA because there was no communication or notification. We recently formed a group to try to get owners a bigger presence on the state board. Unless some of these owners feel involved, they're not going to stay in. If you take the caliber of the people who are owners—and we've got some who are dynamic business people—to not get them involved is stupid. We're trying to get owner involvement to drive racing and get a marketing plan going."

"With the recession, it's a golden opportunity," McKenna added. "People want entertainment and want value. We don't have NASCAR, professional baseball, football, or basketball. We've got the tracks, and we can produce probably the cheapest entertainment value for the general public there is." 



Tom and Sandy McKenna with some of their mares

Index No.:0401004-12

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

THE PEOPLE OF THE STATE OF NEW YORK by ERIC T.
SCHNEIDERMAN, Attorney General of the State of New York.

Plaintiff,

-against-

JOHN C. MOORE, ROBERT HINKLE, MICHAEL LAKOW,
DIANA PIKULSKI, HAYWARD R. PRESSMAN, LESLIE
PRIGGEN, JOHN S. RAINEY, MARGARET SANTULLI,
AND THOROUGHBREED FOUNDATION, INC.,

Defendants.

AFFIDAVIT OF STACEY HUNTINGTON, D.V.M.

ERIC T. SCHNEIDERMAN,
Attorney General
Attorney David Nachman
120 Broadway, Charities Bureau
New York, NY 10271

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